

United States District Court

for

WESTERN DISTRICT OF TEXAS

Amended Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Nick Anthony Rios

Case Number: A-12-CR-402(01)-LY

Name of Sentencing Judicial Officer: Honorable Lee Yeakel, United States District Judge

Date of Original Sentence: February 21, 2013

Original Offense: Count One: Possession with Intent to Distribute Cocaine Base, in violation of 21 U.S.C. § 841(b)(1)(C)

Original Sentence: Count One: 96 months imprisonment, followed by a three (3) year term of supervised release; Special conditions include: substance abuse counseling, participate in workforce development programs, provide financial disclosure, abstain from the use of alcohol, a \$100 special assessment with a \$1000 fine.

Type of Supervision: Supervised Release

Date Supervision Commenced: November 7, 2017

Assistant U. S. Attorney: Mark H. Marshall

Defense Attorney: William H. Ibbotson - Appointed

PREVIOUS COURT ACTION

On April 10, 2015, an order regarding a Motion for Sentence Reduction pursuant to 18 U.S.C. § 3582(c)(2), was submitted to the Court. The motion was granted, and the defendant's incarceration period was reduced to 80 months.

On January 3, 2018, a Report on Offender Under Supervision was submitted to the Court to address a positive urinalysis for amphetamines on December 17, 2017. The Probation Office recommended the offender be allowed to continue his substance abuse treatment. The Court took no action.

On March 22, 2018, a Request for Modifying the Conditions of Term of Supervision with Consent of the Offender was submitted to the Court after the offender tested positive for cocaine and amphetamines. The Probation Office recommended the offender be allowed to continue his substance abuse treatment; however, to modify his special conditions to include search and seizure. The modification was ordered.

On June 21, 2018, a Report on Offender Under Supervision was submitted to the Court to address the offender's unreported interactions with law enforcement and the subsequent citations that resulted in that interaction. Because the offender attended his court date and paid his fines, the Probation Office recommended that no action be taken, and the offender was to resolve any issues regarding his driver license. The Court took no action.

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PETITIONING THE COURT

To issue a warrant

To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation Mandatory Condition No. 1: "The defendant shall not commit another federal, state or local crime during the term of supervision."

Violation Mandatory Condition No. 2: ATThe defendant shall not unlawfully possess a controlled substance."

Nature of Non-compliance: On July 7, 2018, officers of the Austin Police Department (APD) conducted surveillance on the offender as he exited an apartment in south Austin, and he got into a vehicle. Through booking photos, APD officers were able to identify the driver of the vehicle as Nick Anthony Rios. Officers followed the vehicle he was driving and developed probable cause and attempted to conduct a traffic stop. The vehicle the offender was driving did not stop. While evading law enforcement, the passenger of the vehicle opened the passenger door of the vehicle and began dumping drugs out of the vehicle. One of the APD units pursuing the vehicle pulled over to examine the drugs which were later booked into evidence and determined to be crystal meth (later to determine 14 grams of methamphetamines). Other officers continued to pursue the vehicle the offender was driving to north Austin.

Officers observed a male exit the vehicle and evade on foot through the parking lot of Woodspring Suites, where the offender was known to reside. Officers chased the male through the parking lot and a bystander tripped the assailant allowing for officers to apprehend the subject. The male would be later identified as Anthony Paul Rios, the offender's 13 year old son. He was apprehended with a backpack including 2 plastic bags containing a large amount of crystalline substance believed to be methamphetamine, 2 plastic bags containing a large amount of brown tar-like substance believed to be heroin, 1 plastic bag containing a gray colored powder, 1 black digital scale, a large amount of U.S. currency, 1 box of sandwich bags. The minor was detained and booked into Gardner Betts Juvenile Detention Center (General Offense No. 20181880824). The driver of the vehicle got away.

On July 10, 2018, while conducting a routine home visit, the offender walked outside the Woodspring Suites to meet his U.S. Probation Officer in the parking lot and was apprehended and arrested by the Austin Police Department (General Offense No. 2018-1910801) in connection to the incident on July 7, 2018. After the arrest, officers discovered that the offender's girlfriend, with whom he cohabitates, Monica Perez, also had two other rooms under her name at the Woodspring Suites. She was detained in one of the other rooms due to a warrant for a misdemeanor theft charge. Upon apprehension, APD gained access to that room and found narcotics including heroin, amphetamines, marijuana, and pills believed to be a form of Alprazolam.

The offender has been charged with Manufacture or Delivery of a Controlled Substance-Methamphetamine (1st degree felony, Case No. D-1-DC-18301576), Manufacture or Delivery of a Controlled Substance-Amphetamine (1st Degree felony, Case No. D-1-DC-18301577), Manufacture or Delivery of a Controlled Substance-Heroin (1st degree felony, Case No. D-1-DC-18301578), Evading Arrest/Detention with a Vehicle (3rd degree felony, Case No. D-1-DC-18301575) and Endangerment of a Child (2nd degree felony, case number pending) and is currently in custody at the Travis County Jail.

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On January 8, 2019, the offender was found guilty and convicted of Manufacture or Delivery of a Controlled Substance-Heroin (1st degree felony, Case No. D-1-DC-18301578). He was sentenced to six (6) years imprisonment, with 182 days credit, in the Texas Department of Criminal Justice-Institutional Division. This sentence was to run concurrently to his conviction of Evading Arrest/Detention with a Vehicle (3rd degree felony, Case No. D-1-DC-18301575). The offender's other cases: Manufacture or Delivery of a Controlled Substance-Methamphetamine (1st degree felony, Case No. D-1-DC-18301576); Manufacture or Delivery of a Controlled Substance-Amphetamine (1st Degree felony, Case No. D-1-DC-18301577); and Endangerment of a Child (2nd degree felony, case number pending) were unadjudicated and taken into consideration at the time of sentencing.

U. S. Probation Officer Recommendation:

The term of supervision should be:

[X] Revoked.

[] Extended for _____ years, for a total term of _____ years.

[] The conditions of supervision should be modified as follows:

Approved by,

Martha N. Davis

Martha N. Davis
Supervising U.S. Probation Officer
Date: July 16, 2021

Respectfully submitted,

Juliana C. Flores

Juliana Flores
U.S. Probation Officer
Date: July 16, 2021

Approved by,

previously approved

Mark H. Marshall
Assistant U.S. Attorney

X recommends does not recommend Justification: _____

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THE COURT ORDERS:

No Action

The Issuance of a Warrant (previously ordered on July 11, 2018 remains in effect)

The Issuance of a Summons

Other



Honorable Susan Hightower
U.S. Magistrate Judge
July 18, 2021

Date